

voters recently approved a \$10,000,000 bond issue, will get under way within a few months, or just as soon as funds are realized from the sale of the bonds, it was announced by President Frank Gillelen of the Board of Public Works.

Gillelen said the board expects the War Production Board will grant material priorities as soon as it is satisfied that funds have been provided.

#### Excavation First Task

First work will consist of excavating the site for the treatment plant, Gillelen said, and award of a contract for this job probably will be the start of the giant project, which eventually will require an outlay of \$21,000,000.

Gillelen said he expects favorable action by other cities in the district, which will use the sewer, in contributing \$5,000,000 as their share, and the Legislature in providing \$6,000,000 toward a project which is so vital to the health of the metropolitan area.

City Engineer Lloyd Aldrich estimated that under the most favorable conditions it will be two years before the treatment plant and submarine outfall are in use.

Some idea of the size of the plant, he said, may be gained by the fact that the site required is 1,400 feet wide and 4,000 feet long. This, he said, will have to be leveled and adjoining land acquired to provide for the slopes.

Another job, according to Aldrich, will be to divert the central outfall in the north outfall sewer on the Hyperion property.—Los Angeles Times, April 5.

## MEDICAL JURISPRUDENCE†

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San Francisco

### Revocation of License for Conviction of Offense Involving Moral Turpitude

*Business and Professions Code*, Sec. 2383, provides:

"The conviction of a felony or any offense involving moral turpitude constitutes unprofessional conduct within the meaning of this chapter. The record of the conviction is conclusive evidence of such unprofessional conduct."

In *Brainard vs. State Board of Medical Examiners*, 68 A.C.A. 678, the question was presented to the Court whether a physician's conviction in the Municipal Court of violating Sec. 11225 of the *Health and Safety Code* constituted an offense involving moral turpitude, for which the physician's license to practice medicine in the State of California could be revoked. *Health and Safety Code*, Sec. 11225, makes it a public offense for anyone to administer or dispense narcotics without making a record of the transaction. The offense is not a felony.

The petitioner in the above case was duly licensed to practice medicine in this State. A complaint was filed with the Board of Medical Examiners in which it was charged that the petitioner was guilty of unprofessional conduct, as defined by the above quoted section of the *Business and Professions Code*, in that he had been found guilty of failing to keep proper narcotic records. At the hearing before the Board of Medical Examiners a copy of the record of the conviction was presented to the Board, and after hearing the petitioner's license was revoked. He thereupon filed a petition with the Superior Court for a writ of mandate requiring the Board to restore his license. It was contended that failing to keep proper records did not constitute an offense involving moral turpitude, and that this was evidenced by the fact that the petitioner was only given a suspended sentence of one day by the court, upon his plea of guilty to the charge. On appeal to the District Court from the Su-

perior Court's denial of petitioner's application for a writ of mandate, the District Court announced the rule:

"Whether or not the offense committed did in fact involve moral turpitude depends upon all of the surrounding circumstances. The Board of Medical Examiners was not limited by the sentence pronounced by the Municipal Court, but it was justified in hearing evidence concerning all of the circumstances surrounding the offense for the purpose of determining if indeed moral turpitude was involved."

The Appellate Court reviewed the record and found that it contained ample evidence to sustain a finding of commission of an offense involving moral turpitude. A narcotic addict had been given marked money; he entered petitioner's office and the marked money was later found in possession of petitioner. The revocation of petitioner's license to practice medicine was sustained.

The contention made by the physician, petitioner in this case, illustrates the advisability of the Board of Medical Examiners considering all evidence which may be relevant in the passing upon possible revocation of the license. In the *Brainard* case, in the absence of evidence of the facts surrounding the petitioners commission of the offense of failing to keep proper narcotic records, the Board's action in revoking his license might have been reversed. Under *Business and Professions Code*, Sec. 2383, the introduction before the Board of Medical Examiners of the Court records showing conviction of a felony would always be sufficient to sustain a finding of unprofessional conduct. Where, however, the offense involved is only a misdemeanor, in revoking the license it is necessary that the Board go beyond the mere record of conviction and have before it all relevant facts which tend to show that the offense does involve moral turpitude. The reason for this is that in the absence of a statute expressly indicating that evil intent or moral turpitude is inherent in the commission of a crime, the courts are generally reluctant to classify many crimes as involving moral turpitude.

## LETTERS †

### Concerning Number of M.D. Licentiatees in California: (COPY)

CALIFORNIA AND WESTERN MEDICINE

San Francisco, March 22, 1945.

California State Board of Medical Examiners  
c/o Frederick N. Scatena, M.D., Secretary  
1020 N Street, Room 536  
Sacramento 14, California

Dear Doctor Scatena:

Owing to proposals that have come from the East and elsewhere that California and other States grant temporary licenses to physicians who are in military service, or who have been engaged in essential industry, I am writing to ask for information concerning the number of licentiatees in California, and the accretions to the total group of licentiatees year by year.

Kindly answer the following questions, if information is available. (Note. Figures given by Secretary Scatena have been inserted below by the Editor. K.)

- (1) At date of March 3, 1945, there were a total number of legally registered doctors of medicine licensed to practice as physicians and surgeons 11,321. (Refers to Physicians and Surgeons, with M.D. degree, not Physicians and Surgeons, with D.O. degree.)

† Editor's Note.—This department of CALIFORNIA AND WESTERN MEDICINE, presenting copy submitted by Hartley F. Peart, Esq., will contain excerpts from the syllabi of recent decisions, and analyses of legal points and procedures of interest to the profession.

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